

REMARKS

Applicants appreciate the Examiner's thorough consideration provided the present application. Claims 27, 30, 33-40, 42 and 44-48 are now present in the application. Claims 27, 40 and 42 have been amended. Claims 28, 29, 31, 32, 41 and 43 have been cancelled. Claims 27 and 40 are independent. Reconsideration of this application, as amended, is respectfully requested.

Reasons For Entry Of Amendments

As discussed in greater detail hereinafter, Applicants respectfully submit that the rejection under 35 U.S.C. § 103(a) are improper and should immediately be withdrawn. Accordingly, the finality of the Final Office Action mailed on May 2, 2005 should be withdrawn.

In particular, Applicants submit that the amendments to claims 27 and 40 have been previously presented in claim 29 and therefore would not raise new issues. Accordingly, Applicants respectfully request entry and consideration of the foregoing amendments.

Claim Objections

Claim 27 has been objected to due to the presence of minor informalities. In view of the foregoing amendments, in which the Examiner's helpful suggestions have been followed, it is respectfully submitted that this objection has been addressed. Accordingly, Applicants respectfully submit that this objection has been obviated and/or rendered moot. Reconsideration and withdrawal of this objection are respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 27-48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stefik et al., EP 0715247 (hereinafter Stefik). This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In light of the foregoing amendments, Applicants respectfully submit that this rejection has been obviated and/or rendered moot. While not conceding to the Examiner's rejection, but merely to expedite prosecution, as the Examiner will note, independent claims 27 and 40 have been amended to incorporate the subject matter of previously presented claim 29.

Independent claim 27 has been amended to recite a combination of steps including "uploading software from the digital data player to the second personal computer", "reading the code segment attached to the digital data file using the uploaded software in the second personal computer" and "controlling whether or not the uploading of the digital data file is permitted to occur based upon the uploaded software in the second personal computer interpreting the code segment".

Independent claim 40 has been amended to recite a combination of steps including "uploading software from the digital data player to the personal computer", "reading the code segment attached to the digital data file using the uploaded software in the personal computer" and "controlling whether or not the uploading of the digital data file is permitted to occur based upon the uploaded software in the personal computer interpreting the code segment".

Applicants respectfully submit that the combination of steps as set forth in amended independent claims 27 and 40 are not disclosed or suggested by the reference relied on by the Examiner.

Stefik discloses a system for controlling the distribution and use of digital works using a digital ticket. In particular, Stefik discloses that Repository 1 checks the usage rights of the digital work to determine if access of the digital work by Repository 2 is granted (see step 105 of FIG. 1). If the access is denied, Repository 1 terminates the session with an error message (see page 4, lines 6-7).

The Examiner respectively referred to the Repositories 1 and 2 as the digital media player and the (second) personal computer of claims 27 and 40. Based upon the Examiner's construction of Stefik, it is *the digital media player, not the personal computer, that checks the usage rights* of the digital work to determine if access of the digital work by the personal computer is granted. Therefore, Stefik fails to teach "reading the code segment attached to the digital data file *by the software in the second personal computer (claim 27)/ the personal computer (claim 40)*" and "*controlling whether or not the uploading of the digital data file is permitted to occur based upon the software in the second personal computer (claim 27)/ the personal computer (claim 40) interpreting the code segment*" as recited in claims 27 and 40.

Stefik also fails to teach "uploading software from the digital data player to the second personal computer (claim 27)/ the personal computer (claim 40)" as recited in claims 27 and 40. Although the Examiner alleged that Stefik on page 26, lines 5-30 discloses this feature, Applicants respectfully disagree. In fact, Stefik on page 26, lines 5-30 merely teaches how the

digital work is stored in the repository. Stefik fails to teach that the digital work, uploaded to the Repository 2, would be preceded by any control software used to read the usage rights and control the permission of the uploading of *another* digital work, as recited in claims 27 and 40. On the contrary, in Stefik, there is a primary assumption that the repository is a secure and trustworthy source (e.g. due to its registration ID), and that the trustworthy repository would have the control software preinstalled.

Unlike Stefik, the present invention uploads the software from the digital media player to the personal computer prior to uploading the digital data file. Therefore, even if the personal computer is not trustworthy or does not have the control software preinstalled, the control software will be uploaded to the personal computer to check the code segment. Therefore, the user would not be able to bypass the checking step, when the personal computer is not trustworthy. This feature is clearly absent from Stefik.

Since Stefik fails to teach at least the above features of amended independent claims 27 and 40, Applicants respectfully submit that independent claims 27 and 40 and their dependent claims clearly define over the teachings of Stefik. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 are respectfully requested.

Additional Cited References

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state of the art, no further comments are necessary with respect thereto.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

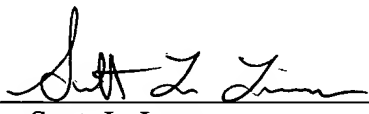
It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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